

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD06-19

Date: May 2, 2007

69:129:me:10798

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: REAUTHORIZATION OF THE WOTC PROGRAM

EXECUTIVE SUMMARY:

Purpose:

This directive announces the reauthorization of the Work Opportunity Tax Credit (WOTC) under the Tax Relief and Health Care Act of 2006 (Public Law [P.L.] 109-432) and transmits revised program eligibility guidelines.

Scope:

This directive applies to all Local Workforce Investment Areas (LWIA).

Effective Date:

This directive is effective immediately.

REFERENCES:

- Tax Relief and Health Care Act of 2006 (P.L. 109-432)
- Training and Employment Guidance Letter 20-06, Reauthorization of the Work Opportunity Tax Credit and Other Program Changes (April 3, 2007)

STATE-IMPOSED REQUIREMENTS:

This document contains some State-imposed requirements. These requirements are indicated in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes WIA Directive WIAD04-19, dated April 21, 2005, and finalizes WIA Draft Directive WIADD-139, issued for comment on March 20, 2007. The Workforce Services Division received no comments during the draft comment period. Retain this directive until further notice.

BACKGROUND:

On December 20, 2006, President Bush signed the Tax Relief and Health Care Act of 2006 (P.L. 109-432). The Act extended the WOTC and WtWTC programs, without

change, for hires occurring on or before December 31, 2006. Effective January 1, 2007, the Act:

- Merged the two tax credit programs into one, incorporating the WtWTC into the WOTC program as a separate target group category for hires occurring on or after January 1, 2007 through December 31, 2007
- Extended the timeliness period for submission of the certification request from 21 to 28 days
- Removed the economically disadvantaged requirement for Target Group C - Ex - Felons, and
- Increased the age category for food stamp recipients to be at least 18 but not yet 40 on the hiring date

The WOTC program has two purposes: (1) to promote the hiring of individuals who qualify as a member of a target group, and (2) to provide a federal tax credit incentive for employers who hire these individuals.

The WOTC program is now comprised of nine target groups, A through I. The tax credit is figured on qualified wages paid to, or incurred on behalf of, target group individuals. The tax credit can only be claimed on an individual's first year wages for Target Groups A-H, while the tax credit for Target Group I may be claimed for wages earned during an individual's first two years of employment. The actual amount of tax credit depends on several factors including the target group of the individual hired, amount of wages earned, and retention period. For additional WOTC specifics, visit the WOTC Web site at www.edd.ca.gov/wotcind.htm.

The federal Department of the Treasury and Department of Labor (DOL) share administrative responsibility for the WOTC program. The Department of the Treasury, through the Internal Revenue Service (IRS), administers the tax provisions of the credit while the DOL, through the Employment and Training Administration (ETA), provides guidance and oversight to states regarding determination of target group eligibility, and the processing and certification of job applicants as target group members to employers. State Workforce Agencies (Employment Development Department [EDD] in California) are named as the "designated local agencies" and are responsible for issuing both Conditional Certifications and final certifications for the WOTC program. However, by federal law, the EDD may delegate WOTC Conditional Certifications to a participating agency (as defined on the following pages).

POLICY AND PROCEDURES:

An employer can claim credit for only first year earnings for those individuals in target groups A through H, and a second credit for each of the first two years earnings for those individuals in target group I. ***Pending release of a revised IRS form 8850 and DOL forms ETA 9061 and ETA 9062, continue to use the current forms. The WOTC forms and publications (excluding ETA 9062) are available at [WOTC Forms](#).***

On-the-Job Training (OJT) Provision:

If for any period an employer receives federally funded payments for OJT for an employee, none of the wages paid to that employee for the OJT period qualify for the WOTC. However, the time spent by the employee receiving OJT qualifies the employer towards fulfilling the minimum employment period requirement (retention period).

WOTC Certification Procedures:

For the purposes of the WOTC program, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by the EDD WOTC Center in Roseville. The EDD's certification requirement may be satisfied in one of two ways:

- An employer completes the *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*, [IRS form 8850 \(Rev. 10-02\)](#) and the DOL's *Individual Characteristics Form, Work Opportunity Tax Credit*, [ETA 9061 \(Rev. 7-02\)](#). These forms, which contain information on the prospective employee, must be completed on or before the day the individual is offered employment. Within 28 calendar days after the individual begins work, the employer must submit the completed IRS form 8850 and the DOL form ETA 9061 to EDD, requesting certification for WOTC. Subsequently, EDD returns a document to the employer certifying whether or not the individual is a qualifying member of a targeted group.
- An employer may receive a Conditional Certification from EDD or a participating agency on or before the day the prospective employee begins work, stating that the individual appears to be a member of a targeted group. The Conditional Certification is issued on the Conditional Certification, *Work Opportunity and Welfare-to-Work Tax Credits*, the DOL form ETA 9062 (Rev. 7-02). The employer then submits this form, along with the IRS form 8850, to EDD for final certification. The employer must submit the IRS form 8850 and the DOL form ETA 9062 within 28 calendar days after the participant starts work.

The EDD retains the responsibility for final certifications. However, Conditional Certifications may be delegated to participating agencies. A participating agency is defined as a federal, state, or local government agency or a grantee of these agencies that have entered into a Memorandum of Understanding with EDD for the issuance of Conditional Certifications. Participating agencies may include, but are not limited to, LWIAs, County Welfare Departments, California Department of Rehabilitation District/Branch Offices and related grantees.

Conditional Certification Procedures:

The Conditional Certification process begins when a job seeker comes to the local EDD office, LWIA, or other participating agency to perform a job search, or in response to a positive recruitment.

To determine if a job-ready applicant is eligible and to issue a Conditional Certification for the WOTC program, DOL form ETA 9062 must be completed. **This is a required**

form. No modification or substitution of this form may be made. Complete the DOL form ETA 9062 with the following information:

1. **Initiating Agency Code.** Enter the appropriate code, based on the agency completing the form. For LWIA purposes, this will be the three-digit code assigned by the Job Training Automation system (*Attachment 1* lists the codes to be used for this section). Additionally, indicate with a check mark "√" that the initiating agency is a participating agency.
2. **Control Number.** The control number is the client's social security number. Again, indicate with a check mark "√" that this form is initiated by a participating agency.
3. **Type of Conditional Certification Determination.** Mark whether this is an "Original," (if the client is being processed for the first time); or "Revalidation," (if the eligibility process was performed within the previous 12-month period) For the Summer Youth target group only, revalidation must occur every 45 days. Otherwise, the Conditional Certification is counted as an "original."
4. **For Ex-Felon Target Group Only.** Enter the Correctional Institution ID No. and the Conviction or release date.
5. **Date Completed.** Enter the date (month, day, and year) in which the eligibility determination is completed.
6. **State Workforce Agency Name and Address.** Enter the following address for the EDD Job Service office issuing the final certification:

WOTC Center
1880 Sierra Gardens Drive Suite 100
Roseville, CA 95661
7. **Signature.** Sign and date the Conditional Certification, ETA 9062.
8. **Telephone Number.** Enter the area code and telephone number of the agency issuing the Conditional Certification.

Part 1. Introduction

9. **Name of Individual.** Enter the individual/applicant full name (i.e., last name, first name, and middle initial).
10. **Social Security Number.** Enter the individual/applicant social security number.
11. **Address.** Enter the individual/applicant home address, including apartment number and zip code. *For LWIA staff,* after entering the address, enter the individual/applicant telephone number, including area code.
12. **Target Group Code.** Enter a check mark "√" to indicate if "Summer Youth" or "Other," and enter code for specific WOTC target group if different from Summer Youth, based on the client's information and documentation provided. Refer to the WOTC target group definitions listed below to obtain the correct alpha code.

13. Disregard question #13 as the former WtWTC Target Group I has been incorporated into the WOTC program, rather than existing as a stand alone tax credit.
14. **Applicant Signature.** Have the individual/applicant sign the Conditional Certification form. If minor, parent or guardian must sign.

Notice to Employer

15. **Expiration Date.** Enter the month, day, and year when the Conditional Certification expires.

Note: The validity period of a Conditional Certification that is based on an economic determination (e.g., Summer Youth) is 45 days. Revalidation of the Conditional Certification is required if the 45 days have elapsed.

All other target groups have no predetermined validity period. However, the WOTC eligible job seeker is required to meet the specific requirements of his or her target group(s) at the time of hire.

Once completed, provide the job seeker/participant the original Conditional Certification form. A copy of the IRS form 8850 may also be included. Staff may assist in completion of the applicant section if requested. No supporting documentation is required to accompany the Conditional Certification form when presented to employers. The participant will present the original Conditional Certification form to prospective employers during the interview/hiring process. If the participant is offered employment, it is the employer's responsibility to complete boxes 16 through 20 on the Conditional Certification form and submit it, along with the IRS form 8850, to the Roseville WOTC Center for final certification within 28 days of the date of hire.

By federal law, participating agencies are required to retain a copy of the Conditional Certification form and supporting documentation for a period of five years after the Conditional Certification is issued. During each quarter EDD will draw, for the purposes of auditing, a 10 percent sample of all certifications issued during the quarter, including those for qualified summer youth employees. The audit will be conducted to establish the credibility and reliability of the eligibility determination and certification process. Should the random draw include Conditional Certifications issued by participating agencies or EDD field staff, EDD Roseville WOTC Center staff may contact them and request copies of the documentation that supports the finding of WOTC target group eligibility.

Attachment 2 lists types of acceptable documentation that may be used when performing Conditional Certification eligibility determinations.

WOTC Target Group Definitions:

Group A—Qualified IV-A Recipient

A member of a family receiving assistance under a State plan approved under Part A of Title IV of the Social Security Act relating to Temporary Assistance for Needy Families (TANF). The assistance must be received for any 9 months during the 18-month period that ends on the hiring date.

Group B—Qualified Veteran

A veteran who is a member of a family receiving assistance under the Food Stamps program for generally at least 3-month period during the 15-month period ending on the hiring date. To be considered a veteran, the applicant must:

- a) Have served on active duty (not including training) in the Armed Forces of the United States for more than 180 days, **OR**
- b) Have been discharged for a service-connected disability, **AND**
- c) Not have a period of active duty (not including training) of more than 90 days that ended during the 60-day period ending on the hiring date.

Group C—Qualified Ex-Felon

An ex-felon who:

- a) Has been convicted of a felony under any federal or State law,
- b) Is hired not more than 1 year after the conviction or release from prison for that felony.

(The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a state court places the individual on probation without a finding of guilty (deferred adjudication).)

Ex-felons who are participating in a transitional program, e.g., work release, are eligible for the WOTC initiative if they were convicted of a felony.

Group D—High-Risk Youth

An individual who is:

- a) At least age 18 but not yet age 25 on the hiring date, **AND**
- b) Lives in an Empowerment Zone, Renewal Community, or Enterprise Community.

Refer to *Attachment 3* for additional information regarding Empowerment Zones, Renewal Communities, and Enterprise Communities.

Group E—Vocational Rehabilitation Referral

Any individual who:

- a) Has a physical or mental disability resulting in a substantial handicap to employment, **AND**
- b) Was referred to the employer upon completion of (or while receiving) rehabilitation services under a State plan of employment or program approved by Department of Veterans Affairs.

Group F—Summer Youth Employee

Any individual who:

- a) Performs services for the employer between May 1 and September 15, **AND**

- b) Is age 16 but not yet age 18 on the hiring date (or if later, on May 1), **AND**
- c) Has never worked for the employer before, **AND**
- d) Resides within a federally designated Empowerment Zone, Renewal Community, or Enterprise Community.

Group G—Food Stamp Recipient

Any individual who:

- a) Is at least age 18 but not yet age 40 on the hiring date, **AND**
- b) Is a member of a family that—
 - Has received food stamps for the 6-month period ending on the hiring date, **OR**
 - Is no longer eligible for assistance under Section 6(o) of the Food Stamp Act of 1977, but the family received food stamps for at least 3 months of the 5-month period ending on the hiring date.

Group H—Supplemental Security Income (SSI) Recipient

Any individual who is receiving SSI benefits under Title XVI of the Social Security Act (including benefits of the type described in Section 1616 of the Act or Section 212 of P. L. 93-66) for any month ending within the 60-day period ending on the hiring date.

Group I—Long-Term Family Assistance Recipient

(Individuals who began work on or after January 1, 1998)

An individual may be certified as a long-term family assistance recipient if he or she is a member of a family that:

- a) Has received TANF payments for any 18 consecutive months ending on the hiring date, **OR**
- b) Receives TANF payments for any 18 months (whether or not consecutive) beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within the last 2 years, **OR**
- c) Stopped being eligible for TANF payments because federal or State law limits the maximum period such assistance is payable and the individual is hired not more than 2 years after such eligibility ended.

ADDITIONAL INFORMATION:

For more information on the WOTC program, contact Shirley Pertle, WOTC Statewide Coordinator at (916) 654-5857, the WOTC Center (toll-free) at (866) 593-0173, or visit the WOTC Web site:

General Information: www.edd.ca.gov/wotcind.htm
Forms and Publications: www.edd.ca.gov/wotcform.htm

Pending release of a revised IRS form 8850 and DOL forms ETA 9061 and ETA 9062, continue to use the current forms. The WOTC forms and publications are available at [WOTC Forms](#).

ACTION:

Bring this directive to the attention of appropriate staff

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#), at (916) 654-7799. Inquires relating to the Conditional Certification may be addressed to Shirley Pertle, Workforce Services Division, at (916) 654-5857.

/S/ BOB HERMSMEIER
Chief
Workforce Services Division

Attachments

INITIATING AGENCY CODES

Local Workforce Investment Area	Initiating Agency Code	Local Workforce Investment Area	Initiating Agency Code
Alameda County	ALA	Orange County	ORA
Anaheim	ANA	Richmond City	RCH
Carson/Lomita/Torrance Consortium	CLT	Riverside County	RIV
Contra Costa County	CON	Sacramento City/County Consortium	SAC
Foothill Employment & Training Consortium	FET	San Benito County	SBE
Fresno City/County Consortium	FRS	San Bernardino City	SBI
Golden Sierra Consortium	GSC	San Bernardino County	SBO
Humboldt County	HUM	San Diego Consortium	SDC
Imperial County	IMP	San Francisco City/County	SFO
Kern/Inyo/Mono Consortium	KIM	San Joaquin County	SJC
Kings County	KNG	San Jose	SJI
Long Beach City	LBC	San Luis Obispo County	SLO
Los Angeles City	LAI	San Mateo County	SMC
Los Angeles County	LAO	Santa Ana City	SAN
Madera County	MAD	Santa Barbara County	SBA
Marin County	MAR	Santa Cruz County	SCR
Mendocino County	MEN	SELACO	SEL
Merced County	MER	Solano County	SOL
Monterey County	MON	Sonoma County	SON
Mother Lode Consortium	MLC	South Bay Consortium	SBY
Napa County	NAP	Stanislaus County	STN
NoRTEC Consortium	NOR	Tulare County	TUL
North Central Consortium	NCC	Ventura County	VNP
NOVA Consortium	NOV	Verdugo Consortium	VER
Oakland City	OAK	Yolo County	YOL

**EXAMPLES OF DOCUMENTARY EVIDENCE OR COLLATERAL CONTACTS
FOR ESTABLISHING AND VERIFYING EMPLOYMENT**

Note: This list is not intended to be all-inclusive.

Age/Birth Date

(Required for High Risk Youth, Summer Youth, and Food Stamp)

- Birth Certificate
- Driver's License
- School I.D. Card*
- Work Permit
- Federal/State/Local government I.D.*
- Hospital Record of Birth

Family Income

(required for Ex-Felon group)

- Pay Stubs
- Employer Contacts
- W-2 Forms
- Unemployment Insurance Documents
- Public Assistance Records
- Family Members' Statements
- Parole Officer's Name
- Parole Officer's Statement

Vocational Rehabilitation Referral

- Vocational Rehabilitation Agency Contact
- Social Services Agency Contact
- Veterans Administration

Ex-Felon Status

- Parole Officer's Name
- Correction's Institution Records
- Court Records, Extracts

Temporary Assistance for Needy Families (TANF) Recipient and Long-Term Assistance Recipient

- TANF benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case Number Identifier

*Where any item of documentary, such as a Federal I.D. Card does not contain the age or birth date, staff must obtain another documentary source to verify the individual's age.

Veteran Status

- DD-214
- Reserve Unit Contacts
- Discharge Papers*

Number In Family

- Public Assistance
- Social Services Agencies

SSI Recipient

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Issuance

Empowerment Zone/Renewal Community/Enterprise Community

- Driver's License
- Work Permit
- Utility Bills
- Signed statement from authorized individual with specific description
- Lease Document
- Voter Registration Card
- Food Stamp Award Letter
- Social Security Agency Letter
- Library Card**
- Landlord's Statement
- Letter From Social Service Agencies
- School Records
- Medicaid/Medicare Card
- Property Tax Record
- Public Assistance Records
- Rent Receipts
- W-4
- Selective Service Registration Card

Food Stamp Recipient

- Food Stamp benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case Number/Identifier

** Where any item of documentary evidence, such as library card does not contain the holder's address, staff must obtain documentary evidence issued in the jurisdiction where the EZ/EC or RC is located showing the holder's address.

FEDERAL EMPOWERMENT ZONES, RENEWAL COMMUNITIES AND ENTERPRISE COMMUNITIES

Federal Empowerment Zone, Renewal Community, and Enterprise Community (EZ/RC/EC) refer to an area or combination of areas meeting certain population, size, and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment, and general distress.

California has a number of Empowerment Zones, Enterprise Communities, and Renewal Communities, including but are not limited to:

- Desert Communities
- Fresno
- Imperial County
- Los Angeles
- Oakland
- Orange Cove
- Parlier
- San Diego
- San Francisco
- Santa Ana
- Santa Cruz
- Watsonville

Because only certain census tracts within a zip code area are in an EZ/RC/EC, not every summer or high-risk youth who resides in the areas indicated above are eligible for the Work Opportunity Tax Credit (WOTC) certification. To verify an applicant's address to ensure that his/her residence is in the EZ/RC/EC, you may enter the individual's address on the EZ/RC/EC Web site at egis.hud.gov/egis/.

The system will check the address and confirm whether it is in an EZ/RC/EC. You may also link to this EZ/RC/EC Web site through the Employment Development Department (EDD) WOTC Web site at www.edd.ca.gov/wotcind.htm.

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development (HUD) Information Center at (800) 998-9999, and they will check the address for you.

The EDD is an equal opportunity employer/program. Auxiliary services and assistance are available to persons with disabilities. The Telecommunications Device for the Deaf (TDD) users can reach EDD through California Relay Service at (800) 735-2929.